Supreme Court, U.S.
FILED
04 291 APR 17 2004
OFFICE OF THE CLERK

No.

In The

Supreme Court of the United States

Anthony Joseph Bator
Petitioner,

v.

Adrian Freund, County of Washoe,
Washoe County Dept of Community
Development, and the State of Nevada
Respondents

On Petition For Writ Of Certiorari
To The Ninth Circuit Court of Appeals

PETITION FOR WRIT OF CERTIORARI
and
APPENDIX

Anthony Joseph Bator
7000 Winnemucca Ranch Road
Reno, Nevada 89510

QUESTIONS PRESENTED

There are three questions this Court should review.

1) The United States District Court has decided two suits involving the major parties to this suit. Both suits involve the use of Petitioner Property and the period of time federal courts have jurisdiction. The two decisions are completely contradictory. Both of those decisions were affirmed by the Appellate Court. Did the lower Courts err in this decision or in the decision entered in 1995?

2) Do the limits established for federal intervention by **Younger v Harris,** 401 U.S. 371, over rule **Dobbins v City of Los Angeles**, 195 U.S. 223 (1904), **Ex-Parte Young,** 209 U.S. 1123 (1908), **Dombrowski v Pfister**, U.S. 479 (1965),and **Coryfield v Coryell,** 6 FED. CAS. 546 NO, 3230 C.C.E. D. Pa 1823?

3) Can county administrative employees commit five felonies, and create a criminal act undefined by law, statute, code, ordinance or corpus delecti to invoke the doctrine of **Younger v Harris,** 401 U.S. 371. effectively barring petitioner from seeking federal remedies?

PARTIES TO THE SUIT

Petitioner is Anthony Joseph Bator, sovereign citizen of the State of Nevada with the privileges and immunities of a Citizen of the United States. Respondents are Adrian Freund, individually, and as Director of the Washoe County Department of Community Development, Washoe County Department of Community Development, and Washoe County. Pursuant to State Laws and potential effect on the outcome of this litigation the Attorney General of the State of Nevada has been named.

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GENERALLY

UNITED STATES CONSTITUTION Artiele IV section 2.
FOURTH AMENDMENT to the UNITED STATES CONSTITUTION
FIFTH AMENDMENT to the UNITED STATES CONSTITUTION
NINTH AMENDMENT to the UNITED STATES CONSTITUTION
FOURTEENTH AMENDMENT to the UNITED STATES CONSTITUTION

QUESTION 1

Bator v. Washoe County, et al CVN-94-173-DWH
Bator v, Freund, County of Washoe, et al
CV-N-03-247-HDM(RAM)

QUESTION 2

Dobbins v City of Los Angeles, 195 U.S. 223 (1904)
Ex-Parte Young, 209 U.S. 1123 (1908)
Dombrowski v Pfister, U.S. 479 (1965)
Younger v Harris, 401 U.S. 371
Coryfield v Coryell, 6 FED. CAS. 546 NO, 3230 C.C.E. D. Pa 1823
M'Culloch v State of Maryland, 17 U.S. 316 (1819)
In Re Slaughter House Cases, ES 83 U.S. 36 (1872)
Railway Co v City of Jacksonville, 67 ILL 37-40
Lakeview v Cemetery Co., ILL 191
The American Law Institute, A Model Land Development Code, Complete Text and Commentary (Library of Congress Catalog No. 76-29574)
Chapter 278 of the NEVADA REVISED STATUES
Nevada State Assembly Bill 475 ENACTING CHAPTER 278

OF THE NEVADA REVISED STATUTES

Village of River Forest v Midwest Bank, 12 Ill. App. 3d136, 297 N.E. 2d 775 (1975)

QUESTION 3

Corpus Juris Segundum

Volume 20 page 202 Section 4 Counties
Volume 20 page 289 Section 87 Counties
Volume 20 page 290 Section 87 Counties; Police Power
Volume 62 page 268 section 147 Reasonableness of Regulations
Volume 62 page 268 Section 148 Invasion of Private Rights
Volume 62 page 286 Section 162 Crimes and Punishments

State v Ruhe, 24 Nev 251

Wright v Georgia, 373 US 284

DECISIONS BELOW

Two suits have been adjudicated in the United States District Court of Northern Nevada. Both suits involve the same parties and same issues, the use of petitioners private farm adjudicated to be an agricultural use.

In the suit at bar CV-N-03-247(HDM)-RAM the court ruled that the petitioner must appear before a state court to adjudicate a criminal charge made by the county before the federal courts have jurisdiction.

The same District Court ruled in CV-N-94-173-DWH that the statutes of limitations expired while the issues were being settled in administrative agencies and state courts. The ruling found that the statutes of limitation began two years from the date of the **first denial** of petitioners rights; **not from the end of the time spent adjudicating and settling the issues.**.

JURISDICTION

The Federal Court has jurisdiction for removal pursuant to 28 U.S.C. 1443 and 1446.

The Federal Court has jurisdiction for issuance of a permanent injunction pursuant to 28 U.S.C. 2283.

The Federal Court has jurisdiction for suit of declaratory relief pursuant to 5 U.S.C. 702 and 5 U.S.C. 706 (A) (B) (C).

This Court has jurisdiction as the action was filed in Federal District Court, appealed to the Ninth Circuit Court of Appeals on a timely basis. The petition for Writ of Certiorari has been submitted within 90 days of the final order of the Ninth Circuit Court of Appeals.

All legal issues raised in this petition were raised in the original petitions filed in the Federal District Court.

STATEMENT OF THE CASE

These facts establish the controversy:

1. Petitioner owns 40.96 acres of real property located in Washoe County State of Nevada.
2. The County has on multiple occasions attempted to deny petitioner the use of this property.
3. Petitioner's property constructed to raise alligators has been adjudicated by a state court to be a lawful agricultural use.
4. Petitioner owns two refrigerated semi trucks, two recreational vehicles and a mobile home.
5. The two refrigerated semi trucks are essential for the agricultural operation of the farm. Cold storage for meat for farm animals.
6. Petitioner has been charged with a crime for illegally storing this private property and private property temporarily stored inside these semi trucks on his farm.
7. **NO CORPUS DELECTI, NO STATE LAW, NO STATUTE, NO CODE, NO ORDINACE and NO TITLE RESTRICTIONS** defines the ownership and holding of this private property as a violation of law.
8. County Official illegally obtained what they refer to as Misdemeanor search warrant to examine what is stored in said Semi-trucks, a violation of the 4th Amendment.
9. Said search warrant clearly does not comply with the requirements of the 4th Amendment to the United States Constitution.
10. Petitioner has demonstrated on the public record (court proceedings) a pattern of lawless harassment.
11. Petitioner alleges and asserted since he would not pay graft to specific county officials the county has pursued a policy of harassment which forfills a promise made to him at the conclusion of litigation in which petitioner prevailed. A state court concluded that petitioner's farm was an appropriate use for his agriculturally zoned property.
12. County officials have committed two cases of felony perjury in filing affidavits essential in dismissing a suit filed in a court superior to the court in which he faces misdemeanor charges.

13. County Officials knowingly committed perjury in alleging false statements to obtain the misdemeanor search warrant.
14. The Court in issuing an illegal misdemeanor search warrant committed one felony. The crime which Petitioner faces is not a violation of any statute, code or regulation. The ownership of private property is not a crime.
15. Same court has issued warrant for the arrest of petitioner while petitioner has sought relief in federal court. Said court has denied continuing said litigation pending resolution in federal court.
16. County Officials have conspired to stop petitioner from operating his adjudicated lawful use, an alligator farm.
17. The County has committed oppression by the inconsistent application of the law.
18. County Officials have slandered the petitioner with companies with whom he operated a lawfully licensed business.
19. The County has maliciously proceeded with prosecuting a criminal action undefined by law, statute, code, ordinance or corpus delecti in Sparks Justice Court to invoke the doctrine of **Younger v Harris,** 401 U.S. 371 to deny petitioner access to a federal remedy.
20. Petitioner believes county officials have committed acts of vandalism to petitioner's private and real property in the attempt to cause his arrest for the alleged misdemeanor violations.
21. County Officials after having staked out petitioner farm, have confronted a neighbor at gunpoint while he was feeding petitioner's livestock.

CONSTITUTIONAL PROVISIONS AND STATUATORY PROVISIONS INVOLVED

QUESTION #1

The suit currently before the court, the lower courts ruled that they have no jurisdiction until the state settles issues currently before a state court.

In a suit regarding the same issues previously ruled upon, the use of petitioner private property adjudicated to be an agricultural use by a state Court, the United States District Court ruled that the statutes of limitations for recovery of damages had expired during the time which was spent settling the controversy.

In both decisions if the lower courts are correct than the county one party to this litigation is clearly in control of the rights of the petitioner. The county will continue the suit in the state court for a long as it takes to deny petitioner access to the federal courts. The County has done this previously in CV-N-94-173-DWH and in other suits (see original complaint district court).

It is not the petitioner's belief that it is this courts intention, to deny him a relief and a remedy for the denial of the use of his property and the denial of his rights that upholding both decisions will insure.

In which case did the lower courts err?

QUESTION #2

The controversy in this action revolves solely around the use of petitioner's private property.

In **Coryfield v Coryell,** 6 FED. CAS. 546 NO, 3230 C.C.E. D. Pa 1823 the court stated:

> "What are the privileges and immunities of citizens of the several states?" We feel no hesitation in confining these expressions to those privileges and immunities which are, in their nature, fundamental; which belong, of right, to the citizens of all free governments; and which have, at all times, been enjoyed by the citizens of the several states which compose this Union, from the time of their

being free, independent, and sovereign. What these fundamental principles are, it would perhaps be more tedious than difficult to enumerate. They may, however, be all comprehended under the following general heads: Protection by the government: the enjoyment of life and liberty, with ***the right to acquire and possess property of every kind***, and to pursue and obtain happiness and safety subject nevertheless to such restraints as the government may justly prescribe for the general good of the whole. The right of a citizen of one state to pass through, or to reside in any other state, for purposes of trade, agriculture, professional pursuance, or otherwise: To claim the benefit of the Writ of the Habeas Corpus; to institute and maintain actions of any kind in the courts of the state; ***to take, hold, and dispose of property, either real or personal;***

Restating the facts stated earlier in the Statement of the case:

1. Petitioner owns 40.96 acres of real property located in Washoe County State of Nevada.
2. The County has on multiple occasions attempted to deny petitioner the use of this property.
3. Petitioner's property has been adjudicated by a state court to be a lawful agricultural use.
4. Petitioner owns two refrigerated semi trucks, two recreational vehicles and a mobile home.
5. The two refrigerated semi trucks are essential for the agricultural operation of the farm. Cold storage for meat for farm animals.
6. Petitioner has been charged with a crime for illegally storing this private property on his farm.
7. **NO CORPUS DELECTI, NO STATE LAW, NO STATUTE, NO CODE, NO ORDINACE and NO TITLE RESTRICTIONS** defines the ownership and holding of this private property as a violation of law.

In **Dobbins v City of Los Angeles**, 195 U.S. 223 (1904),

Ex-Parte Young, 209 U.S. 1123 (1908) **this** court established that federal courts do have jurisdiction to protect the private property rights even if criminal charges are outstanding against the accused.

The lower courts ignore the findings of Dobbins and Young supra and cite cases which utilize this courts decision using **Younger v Harris,** 401 U.S. 371.

These cases are completely different.

Younger v Harris did involve a **defined** criminal act.

Property rights were not an issue in Younger v Harris.

Did **Younger v Harris** overrule **Dobbins and Young**?

If this courts answer is no, then the findings of the courts below should be over turned.

If this courts answer is yes, the petitioner inquires as to what circumstances would exist as stated in **Dombrowski v Pfister**, U.S. 479 (1965) which would be extraordinary enough to warrant federal intervention?

QUESTION #3

What extraordinary circumstance would exist to warrant federal intervention? If the Younger case did overrule Dobbins and Young, Younger itself recognizes circumstances exist which warrant federal intervention, Dombrowski, supra.

Dombrowski alleged a 4th Amendment violation, and a pattern of continue personal harassment including libelous statements in a public forum.

Petitioner restates, again from the Statement of the case, that he has on a sworn affidavit alleged in the suit filed in the Nevada district court:

8. County Official illegally obtained what they refer to as Misdemeanor search warrant to examine what is stored in said Semi-trucks, a violation of the 4th Amendment.
9. Said search warrant clearly does not comply with the requirements of the 4th Amendment to the United States Constitution.
10. Petitioner has demonstrated on the public record

(court proceedings) a pattern of lawless harassment.

11. Petitioner alleges and asserted since he would not pay graft to specific county officials the county has pursued a policy of harassment which forfills a promise made to him at the conclusion of litigation in which petitioner prevailed. A state court concluded that petitioner's farm was an appropriate use for his agriculturally zoned property.
12. County officials have committed two cases of felony perjury in filing affidavits essential in dismissing a suit filed in a court superior to the court in which he faces misdemeanor charges.
13. County Officials knowingly committed perjury in alleging false statements to obtain the misdemeanor search warrant.
14. The Court in issuing an illegal misdemeanor search warrant committed one felony. The crime which Petitioner faces is not a violation of any statute, code or regulation. The ownership of private property is not a crime.
15. Same court has issued warrant for the arrest of petitioner while petitioner has sought relief in federal court. Said court has denied continuing said litigation pending resolution in federal court.
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18. County Officials have slandered the petitioner with companies with whom he operated a lawfully licensed business.
19. The County has maliciously proceeded with prosecuting a criminal action undefined by law, statute, code, ordinance or corpus delecti in Sparks Justice Court to invoke the doctrine of **Younger v Harris,** 401 U.S. 371 to deny petitioner access to a federal remedy.
20. Petitioner believes county officials have committed acts of vandalism to petitioner's private and real property in the attempt to cause his arrest for the alleged misdemeanor violations.

21. County Officials after having staked out petitioner farm, have confronted a neighbor at gunpoint while he was feeding petitioner's livestock.

If these actions by the county do not constitute grounds for intervention, I ask this court what will, when I disappear one night never to return?

REASONS FOR GRANTING THE WRIT

1. The District Court has made contradicting decisions regarding the same issues. It appears that the Lower court will waver its opinions in behalf of the local authorities, to dismiss a legitimate suit. If both of these decisions stand, petitioner is denied any means of seeking remedy for the unlawful, and criminal acts of the local authorities which have persisted for 15 years. Petitioner has little hope of relief from these criminal acts if no court takes action to uphold the law and to defend the liberties guaranteed by our founding documents and heritage.

2. This court has ruled on issues similar to this before. The authority to intervene is unquestionable. The law is not herein challenged as unconstitutional. The application of the law is. Its application is criminal.

3. The local administrative agencies, including the Washoe County District Attorney's Office, have learned to manipulate the federal processes. They use what ever methods are available to obstruct the law and justice, and reward criminal government employees which have taken over the local community which I call home.

CONCLUSION

There is not much to conclude. What is difficult is accepting what in fact exists. It is best addressed by asking in what is and is not an acceptable form of government. Our federal constitution guarantees a republican form of Government, with individual liberties. In Nevada we have a government laced with corruption and special privilege. This Court should grant the petition and reverse the judgment of the Ninth Circuit Court of Appeals and the United States District Court.

Respectfully Submitted

COPY

Anthony Joseph Bator
Pro se
7000 Winnemucca Ranch Road
Reno, Nevada 89510

County of Washoe)
) SS:
State of Nevada)

SUBSCRIBED and Sworn to me before me this ____ day of

June 26, 2004

_____
Notary

No.

In The

Supreme Court of the United States

Anthony Joseph Bator

Petitioner,

v.

Adrian Freund, County of Washoe,
Washoe County Dept of Community
Development, and the State of Nevada

Respondents

On Petition For Writ Of Certiorari
To The Ninth Circuit Court of Appeals

APPENDIX

Anthony Joseph Bator
7000 Winnemucca Ranch Road
Reno, Nevada 89510

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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ANTHONY JOSEPH BATOR

Petitioner, CV-N-03-247-HDM (RAM)

vs. ORDER

WASHOE COUNTY, WASHOE COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT, THE STATE OF NEVADA, and ADRIAN FREUND, an individual.

Respondents /

Petitioner Anthony Joseph Bator ("Petitioner"), in properia persona, filed a Petition for Temporary Injunction, Petition for Removal of State Criminal Action, Petition for Permanent Injunction, and for Declaratory Relief on May 9, 2003. Petitioner seeks to enjoin a pending state criminal prosecution against him and to permanently enjoin the enforcement of Washoe County's development codes.

Under Younger abstention, federal courts may not grant declaratory or injunctive relief that would interfere with state criminal or civil proceedings, including state administrative proceedings that are judicial in nature. Fresh International Corp. v. Agriculture Labor Relations Board, 805 F 2d 1353 (9th Cir. 1986): Aiona v Judiciary of the State of Hawaii, 17 F.3d 1244, 1248 (9th Cir. 1984). When a state criminal prosecution has begun, the Younger rule directly bars an injunction or declaratory judgment action. Samuel v Mackell, 401 U.S. 66, 73 (1971).

In Younger, the Supreme Court "espoused a strong federal policy against federal court interference with pending state judicial proceedings." H.C.v Koppel, 203 F3d 610, 613 (9th

Cir. 2000). Absent extraordinary circumstances, Younger abstention is required if the state proceedings are (1) ongoing, (2) implicate important state interests, and (3) provide the plaintiff with an adequate opportunity to litigate federal claims. Hirsh v.Justices of the Supreme Court, 67 F. 3d708, 712 (9th Cir. 1995). A federal court cannot interfere with ongoing state criminal proceedings by granting injunctive or declaratory relief. Younger 401 U.S. at 43-54. Thus, "when a case is on in which the Younger doctrine applies, the district court has no discretion; it must dismiss." Fresh International at 1356;

In the case before the court, two warrants have been issued for Bator's arrest and he has failed to appear for the arraignment in Sparks Justice Court. Accordingly the state criminal proceeding is ongoing. Bator's complaint is seeking this court to find whether the State of Nevada has the authority to grant Washoe County the power to regulate agricultural activity on private property. The state Court can properly address the constitutionality of this issue in the first instance.

Further, the state has a strong interest in the ability to regulate activity occurring on real property within its jurisdiction. All of the claims Bator has raised in his complaint can be fully litigated in the state Courts.

Accordingly, Bator's Petition for Temporary Injunction, Petition for Removal of State Criminal Action, Petition for Permanent Injunction, and for Declaratory Relief is Denied. Bator's Federal claim for in injunctive and declaratory relief are dismissed.

It is so ORDERED

This 13th day of May 2003

UNITED STATES DISTRICT JUDGE
HOWARD D. MCKIBBON

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

NO. 03-16379
CT/AG#: CV-03-00247-HDM/RAM

ANTHONY JOSEPH BATOR
Plaintiff –Appellant

v.

ADRIAN FREUND; NEVADA STATE OF; WASHOE COUNTY DEPARTMENT OF DEVELOPMENT; WASHOE COUNTY OF
Defendant – Appellees

---

before: GOODWIN, WALLACE and TROTT , Circuit Judges

APPEAL FROM the United States District Court for the District of Nevada (Reno).

THIS CAUSE came on to be heard on the Transcript of the record from the United States District Court for the District of Nevada (Reno) and was duly submitted.

ON CONSIDERATION WHEREOF, It is now ordered and adjudged by this Court, that the judgment of the said District Court in this be and hereby AFFIRMED.

Filed and entered December 15, 2003

GOODWIN, WALLACE and TROTT

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

NO. 03-16379
CT/AG#: CV-03-00247-HDM/RAM

ANTHONY JOSEPH BATOR
Plaintiff –Appellant
v.

ADRIAN FREUND; NEVADA STATE OF; WASHOE COUNTY
DEPARTMENT OF DEVELOPMENT; WASHOE COUNTY OF
Defendant – Appellees

Before: GOODWIN, WALLACE and TROTT, Circuit Judges

Appellant's "Statement of Facts Which Have Changed and Motion to Reconsider" is construed as an untimely petition for panel rehearing, and it is ordered Filed. The petition for panel rehearing is DENIED.

No further filings shall be accepted in this closed appeal.

DATED JANUARY 21, 2004

_____
GOODWIN, WALLACE and TROTT

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ANTHONY JOSEPH BATOR

Plaintiff, CV-N-94-173DWH

vs ORDER

SUPREME COURT OF NEVADA, BRENT ADAMS, COUNTY OF WASHOE, MIKE HARPER, ORIS CORBRIDGE, DOUG COULTER, CARL CAHILL

Defendants /

This action was filed March 11, 1994. By it plaintiff sues the Supreme Court of the State of Nevada, Second Judicial District Court Judge Brent Adams, Washoe County, Mike Harper, Oris Corbridge, Doug Coulter, Carl Cahill and Russell Nash for Deprivation of his civil rights. Defendants move to dismiss plaintiff's action on the ground, inter alia, it is barred by the statute of limitations (#10, #11). These motions have been briefed and submitted for decision.

Fore statute of limitations purposes, civil rights actions are Characterized as personal injury actions. Wilson v. Garcia, 471 U.S.261, 276-80 (1985). Although state law set the limitation period, "federal law governs the time of accrual." Gibson v United States, 781 F.2d 1334, 1340 (9th cir. 1986), cert denied, 479 U.S. 1054 (1987). Under federal law, the touch stone for fixing claim accrual is notice. Hoesterey v. City of Catherdral City, 945 F2d 317, 319 (9th Cir 1991), cert denied, 112 S. Ct. 1941 (1992). [A] cause of action generally accrues when a plaintiff knows of has reason to know of the injury which is the basis of his action." Cline v Brussett, 661 F.2d 108, 110 (9th Cir. 1981)

In Nevada, the limitations period for personal injury actions Is two years after accrual. Nev. Rev. Stat. sec 11.190 (4)

(e). The plaintiff's complaint shows he knew of his alleged injuries in 1989 And 1990, the time alleged illegal conduct occurred. His oppositions #'s 12, 13 confirm this. Plaintiff did not file this case until after it was time barred.

IT IS HEREBY ORDERED that the defendants' motions To dismiss (#10, #11) are GRANTED.

IT IS FURTHER ORDERED that plaintiff's action is DISMISSED with prejudice.

The clerk of the court shall enter judgment accordingly.

DATED: January 10, 1995.

_____

DAVID W. HAGEN
UNITED STATES DISTRICT JUDGE

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

NO. 03-16379
CT/AG#: CV-03-00247-HDM/RAM

ANTHONY JOSEPH BATOR
Plaintiff –Appellant
v.

SUPREME COURT OF NEVADA, BRENT ADAMS, COUNTY OF WASHOE, MIKE HARPER, ORIS CORBRIDGE, DOUG COULTER, CARL CAHILL
Defendant – Appellees

Before: BETTY FLETCHER, KOZENSKI, THOMPSON,
Circuit Judges

Affirmed.

DATED JULY 20, 1995

FLETCHER, KOZENSKI and THOMPSON